

**2003 DRAFTING REQUEST****Bill**Received: **12/10/2002**Received By: **mlief**Wanted: **As time permits**

Identical to LRB:

For: **Pedro Colon (608) 267-7669**By/Representing: **andy janssen**This file may be shown to any legislator: **NO**Drafter: **mlief**

May Contact:

Addl. Drafters:

Subject: **Higher Education - UW System**Extra Copies: **PG**Submit via email: **YES**Requester's email: **Rep.Colon@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Allowing undocumented aliens to pay resident tuition


**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	mlief 12/11/2002	kgilfoy 12/13/2002	jfrantze 12/16/2002		sbasford 12/16/2002	lemery 01/29/2003	

FE Sent For:


**At Intro.**

12/16/2002 12:05:32 PM

Page 1

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FE Sent For:

11-12/13  
Kmg

12/16

12/16  
12/16  
<END>

December 9, 2002

TO: Lonnie Lief

FROM: Andy Janssen - Office of Representative Pedro Colón

RE: Bill Drafting request

Please draft a bill to allow undocumented students who qualify for the University of Wisconsin System to receive the in-state tuition rate.

The bill should include be written to say the individual:

1. graduated from a public or private high school in Wisconsin or received the equivalent of a high school diploma in this state;
2. was continuously present in this state for at least one year between the first day the individual attended a public or private high school in this state and the date the person graduated from a public or private high school in this state or received the equivalent of a high school diploma;
3. the individual will file and affidavit with the University System stating that the student has filed an application to legalize his or her immigration status, or will file and application as soon as he or she is eligible to do so.

In addition could you draft a second bill that contains the above provision but also will allow these same students the ability to access the guaranteed student loan programs?

Please call if you have questions.

Thanks.

*Due end of Jan*

*GMM to  
do this*



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1096/1

MJL:.....  
Xmg

2003 BILL

Due  
Jan 15

D-N

To editing  
Dec 11

Gen. Cat.

- 1 AN ACT ...; relating to: allowing aliens who are not legal permanent residents  
2 of the United States to pay resident tuition.

*Analysis by the Legislative Reference Bureau*

Generally, current law allows a University of Wisconsin (UW) System student who has been a bona fide Wisconsin resident for the 12 months preceding the beginning of a semester or session for which the student registers to pay resident, as opposed to nonresident, tuition.

This bill allows an alien who is not legal permanent resident of the United States to pay resident, as opposed to nonresident, tuition if: (1) he or she graduated from a Wisconsin high school or received a high school graduation equivalency from Wisconsin; (2) was continuously present in Wisconsin for at least one year following the first day of attending a Wisconsin high school; and (3) enrolls in a UW System institution and provides the institution with an affidavit stating that he or she ~~has~~ <sup>has</sup> filed or will file an application for permanent residency with the Immigration and Naturalization Service as soon as the person is eligible to do so.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

INSERT 1-1

SDC:.....Keckliaver - CN2713, Aliens and resident tuition eligibility

FOR 2001-03 BUDGET -- NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 55**

INS 1-1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 519, line 5, after that line insert:

3 ~~SECTION 13504.~~ 36.27 (2) (cr) of the statutes is created to read:

4 36.27 (2) (cr) A person who is a citizen of a country other than the United States  
5 is entitled to the exemption under par. (a) if that person meets all of the following  
6 requirements:

7 1. The person graduated from a high school in this state or received a high  
8 school graduation equivalency from this state.

1. The person <sup>was continuously present</sup> ~~resided~~ in this state for at least ~~3~~ <sup>one year following the</sup> years after graduation from ~~the~~ <sup>first day of attending a</sup> high school or after having received a high school graduation equivalency ~~from~~ <sup>in</sup> this state.
3. The person enrolls in an institution and provides that institution with an affidavit stating that the person <sup>has filed or</sup> will file an application for a permanent resident visa with the Immigration and Naturalization Service as soon as the person is eligible to do so.

SECT#

Initial applicability:

(1) This act first applies to persons who enroll for the academic year or ~~sem~~ <sup>semester</sup> or session following the effective date of this subsection.

end IRS 1-1

SDC 1. Kackover - CN 7/13. Aliens and resident tuition

FOR SCHOOL BUDGET - 2013

INDICUS RELEASES

THINKSAFE

D-NOTE

Andy:

John

(If) this bill might

~~As I have explained to Andy Janssen and Doug Burnett, I believe that this amendment, if enacted, would violate 8 USC 1623, which prohibits a college or university from offering an "alien who is not lawfully present in the United States" resident tuition. Although the I.N.S. has not yet promulgated regulations interpreting this provision, I think that the provision is largely unambiguous. Even if the federal provision is successfully challenged in court that process could take years. In the meantime, the UW System would be placed in the untenable situation of having to violate federal law to comply with state law.~~

Senior  
Safar

Madelon J. Lief  
Legislative Attorney  
Phone: (608) 267-7380



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1096/1dn  
MJL:kmg:jf

December 16, 2002

Andy:

If enacted, this bill might violate 8 USC 1623, which prohibits a college or university from offering an "alien who is not lawfully present in the United States" resident tuition.

Madelon J. Lief  
Senior Legislative Attorney  
Phone: (608) 267-7380